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Mayor

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Candace Havens  
Director

August 11, 2014

[By Electronic Mail and Regular Mail]

David Hanifin, Senior Loan Officer  
Massachusetts Housing Partnership  
160 Federal Street  
Boston, Massachusetts 02110

RE: M.G.L. Chapter 40B Comprehensive Permit Site Eligibility Application

|                           |                                   |
|---------------------------|-----------------------------------|
| Project Name:             | 70 Rowe Street                    |
| Location:                 | 70 Rowe Street, Newton, MA        |
| Number of Proposed Units: | 150                               |
| Subsidizing Agency:       | Massachusetts Housing Partnership |
| Applicant:                | Dinosaur Rowe, LLC.               |
| Development Company:      | Dinosaur Capital Partners, LLC.   |

Dear Mr. Hanifin:

Thank you for the opportunity to comment on the Site Eligibility application recently submitted by Dinosaur Rowe, LLC. (the "Applicant") for 70 Rowe Street, Newton (the "Project"). This letter constitutes the City's response to your letter addressed to Mayor Warren, dated July 11, 2014 seeking comments regarding the Project as part of Massachusetts Housing Partnership's ("MHP") consideration of the Applicant's request for Site Eligibility. Written comments received by the Newton Planning and Development Department (the "Department") from other interested parties are attached and have helped to inform our letter (**Attachment A**).

Our City has always been deeply committed to the creation of affordable housing opportunities in Newton and we welcome well planned Comprehensive Permits at appropriate locations that are fittingly designed for the existing neighborhood context. The City is particularly supportive

of projects seeking to achieve goals beyond creating affordable housing in order to provide the maximum benefit to the City and the local community.

**The site is zoned Business 2 and as such would not allow for residential development as a by-right use.** The City values its limited commercially zoned real estate and is concerned about lost opportunity with the conversion of this site from commercial to residential use. Because Newton is valued as a place to live, the City is experiencing an enormous amount of residential development pressure on our commercially-zoned land throughout the City. Since the City is predominantly a residential suburb, the limited real estate zoned for commercial use is vital to ensuring a strong commercial tax base to provide services for our residents. **It is for this reason and others stated in this letter, we have grave concerns about converting this site from commercial to residential use, particularly a project of this intensity. The Department also believes that the Applicant needs to submit an appraisal showing As-Is Market Value for the application to be considered complete.**

Should MHP decide that the site is eligible for a Comprehensive Permit, the Department asks that it take into consideration the numerous concerns outlined herein. First, the site plan does not appear to be designed to relate to the neighborhood; the massing of the building and limited open space appear very separate and isolated from the surrounding neighborhood context. In order for this project to be successful we believe it should show more of a connection to the immediate neighborhood and provide opportunities for interaction between residents of the building and the adjacent neighborhood. The Department believes that the addition of commercial space on the ground floor of the building that provides services to residents, as well as the surrounding neighborhood would be a welcome addition to the programming and would contribute to the tax base. Additionally, this neighborhood lacks proximity to open space and the programming of the proposed open space should be an amenity to the entire neighborhood, which will help to foster a sense of community and a link between this building and the adjacent neighborhood. The Department encourages the Applicant to consider alterations to the Project to address the goals of both indoor and outdoor space that is available to the community.

Finally, the Department is concerned about the impact this project will have on local roadways and intersections. Many of the surrounding roads are narrow and lack sidewalks, pedestrian crossings and bike lanes. The Applicant should work with the City's Transportation Division to scope out a traffic and parking study once school is in session that will evaluate the impact of the proposed development on surrounding roads. Should this project move forward we ask that the Applicant use this information to identify improvements that will help to mitigate any impacts of this project on the surrounding neighborhood.

The Department offers the following additional comments in order to help MHP evaluate the request for project eligibility:

**A. Land Use, Site Plan Design, and Sustainability**

The regulations for Comprehensive Permits under Chapter 40B direct that the Subsidizing Agency determine that *“the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns.”*<sup>1</sup>

- **Smart Growth.** The Massachusetts Department of Housing and Community Development encourages housing development that is consistent with smart growth, sustainable design, and green building practices. Goals that are encouraged include concentrating development in town centers, integrating housing where a mix of uses is available, promoting development that is compact and protects environmentally sensitive areas, and locating housing where residents have a variety of transportation choices other than dependence on cars for every trip they make.

Overall, the location of the site appears to be generally consistent with smart growth principles. The site is located between two village centers, with proximate access to each center. Although the City strives to encourage larger housing projects *within* village centers, the site is within a half-mile of two commuter rail stations and several bus lines, within a mile of the Riverside Green Line Station, and within a half-mile of a grocery store and other basic services. The site is also proximate to the Massachusetts Turnpike, Route 128, and other major roads. However, there is a significant concern regarding the site’s accessibility, the impact on local roadways, and the lack of contiguous sidewalks in some parts of the neighborhood. In addition, the site is accessed via Rowe Street, and Crescent Street which is one-way and severely limits travel options for vehicles leaving the site.

In terms of the programming for the Project, the Department suggests that the Applicant replace a portion of the ground floor residential space with commercial space and community space. Locating amenities/jobs close to a mostly residential neighborhood will help to promote smart growth principals. In addition, we strongly encourage the Applicant to continue to detail how they will increase transportation options for residents of this site, in order to reduce single-occupancy vehicle

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<sup>1</sup> (760 CMR 56.04(4)(c))

dependence, and reduce the impact of traffic from this site on local roads and intersections.

- **Land Use.** The site is located in a Business 2 zoning district which allows certain uses by right and others by special permit, as follows:
  - Commercial uses (office, retail, service, restaurant, etc., and similar uses) by right
  - Commercial uses with one floor of residential units above (though not exceeding three units) uses by right
  - Multi-family dwelling (building containing more than 3 units) by special permit

The Applicant is proposing a multi-family dwelling that will exceed the number of units that would be allowed if a special permit were granted. The following table illustrates how the Project compares to what is allowed for a multi-family dwelling granted by special permit under the Newton Zoning Ordinance (NZO).

|  | <b>Special Permit<br/>(Multi-family)</b> | <b>Proposed</b>               |
|--|--|-------------------------------|
| Lot Size   | 10,000                                   | 124,000                       |
| Floor Area Ratio   | 2.00                                     | 1.25                          |
| Residential Units  | 103                                      | <b>150</b>                    |
| Affordable units   | 16                                       | 30                            |
| Max Stories  | 4 stories                                | 4 stories                     |
| Building Height (feet)   | 48                                       | 48                            |
| Lot Area Per Unit  | 1,200                                    | <b>828</b>                    |
| Setbacks (feet) <ul style="list-style-type: none"> <li>• Front</li> <li>• Side (north)</li> <li>• Rear (east)</li> </ul> | 20 feet<br>24 feet<br>24 feet            | 10 feet<br>24 feet<br>70 feet |
| Parking (# of stalls)  | 300 (assuming 150 units)                 | <b>190</b>                    |
| Max. Lot Coverage %  | NA*                                      | 28%                           |
| Open Space %   | NA*                                      | 30%                           |

\* There is no requirement for lot coverage or open space in the Business 2 zone.

The Project will be seeking waivers from the zoning requirements, including but not limited to those identified in the preceding table. The Department notes that districts zoned for commercial uses do not have requirements for minimum open space percentage or for maximum lot coverage percentage.

Should MHP decide the site is eligible for housing, the Department believes that the location of the site in a commercially zoned district adjacent to a residential neighborhood presents a unique opportunity for a mixed-use development. As such, the Department recommends that the Applicant reconsider the programming of uses in its submittal to the Zoning Board of Appeals to include some commercial space on the ground floor that will complement the surrounding neighborhood.

- **Density.** The Applicant is proposing 150 dwelling units, which equals a density of 828 square feet of lot area per unit. This is significantly denser than the 1,200 square feet of lot area per unit that would be allowed by special permit for a multi-family project under the NZO, and the 1,439 square foot average for lot area per unit of recently approved Comprehensive Permits in Newton. As compared to the surrounding neighborhood the proposed project is four times more dense than the median lot area per unit of the surrounding neighborhood, and eight times as dense as the average lot area per unit.

The Department is concerned that the Project's density will significantly impact the traffic-burdened local and arterial streets that connect to the Massachusetts Turnpike and Rt. 128 entrances/exits. In addition, the Department believes that **the density of the Project and the associated parking requirement restricts the amount of indoor/outdoor space that could be made available to the community.** For these reasons, the Department recommends that the Applicant reduce the number of residential units in the Project in favor of more open space.

- **Site Design.** The site plan locates the proposed building away from abutting residential properties and utilizes parking beneath the building for a portion of their parking supply. The building is in an "F" shape to maximize each unit's access to air and sunlight, and to create a courtyard area in the front of the building. In order to improve the Project's aesthetic contribution to the streetscape and to increase the amount of open space available to the public, the Department recommends that the Applicant consider the following changes to the site plan:
  - Flipping the "F" shape to provide a mostly continuous street wall that is setback modestly from the street;

- Moving the driveway to the surface parking area to the western side of the site;
- Removing the courtyard to allow for a larger open space area on the eastern portion of the site; and
- Relocating the pull-in handicap parking stalls in the front of the building which would require two additional curb cuts or one large additional curb cut.

In addition, the Department encourages the Applicant to improve the streetscape as part of their project, and to incorporate best practices in green streets and low-impact development in any sidewalk and roadway improvements.

- **Massing and Architecture.** The site is located on an industrial portion of Rowe Street consisting of large, mostly two-story commercial buildings with very few architectural details, and is adjacent to residential streets consisting of modestly-sized lots, improved with two to 2½-story single-family and some two-family dwellings. The Project appears to transition between these two forms by using a fairly modern and simple architectural style with limited changes in building height, while also integrating more traditional residential details throughout the building. We encourage the Applicant to take more architectural queues from the surrounding residential neighborhood in the detailing of this structure.

In terms of mass, the proposed buildings will extend two stories over the surrounding commercial structures, but will be similar in its footprint, and will be setback significantly from the surrounding residential properties. The Department encourages the Applicant to explore ways to break up the mass and uniform appearance of the building, while still maintaining its transition between residential and commercial architecture.

Should this project move forward we request that the Applicant submit a shadow study at the time of filing with the Zoning Board of Appeals.

- **Building Amenities.** The Department is concerned that the suggested amenities provided on the site, such as a pool, putting green and barbeque/fire pit will not benefit the surrounding community. The Department recommends allocating a small portion of Project's indoor space for community activities, and creating meaningful open space on the site that is available to the neighborhood.

The Department also believes that the proposed Project will attract a significant number of families due to the reputation of Newton's school system and the number

of two- and three-bedroom units. The Department is concerned that planned amenities for this building do not account for the likely reality that a number of units will include school-age children. As there are no playgrounds within walking distance, the Department recommends some family-friendly features be included in the amenities package.

- **Open Space.** The open space on the site consists of a courtyard area in the front of the building and vegetation along the property lines. The Department encourages the petitioner to increase open space, which may be accomplished if the number of units and/or amenity space is reduced. The Department also encourages the Applicant to integrate outdoor spaces into the building design, such as rooftop structures, or balconies in the rear of the building.
- **Environmental Impact.** The Project is located on a brownfield site that consists of mostly impervious surfaces. The site was used by a construction company for a number of years and is subject to an Activity and Use Limitation (AUL) due to a previous oil spill that contaminated a portion of the site. The contamination has been partially remediated, but will require additional remediation once the structures on the site are removed. The Applicant will be required to go through the EPA's regulatory process. **Vigilance in cleanup and removal of contamination through this dense neighborhood is of paramount importance.**

The Applicant did not address stormwater management in their application, but has indicated to the City that drainage will likely improve as part of the Project. **There is significant concern that flooding and ponding occurs on-site and in the neighborhood during heavy rain events and that this may be exacerbated with new construction.** All storm water shall be detained on-site and infiltrated into the groundwater up to the 100-year storm standard. The Department recommends that in addition to meeting all regulatory requirements for stormwater management, the Applicant make every effort to limit water use within the building through sustainable design. The Department also recommends that the Applicant use a diverse mix of native species to the extent possible in its landscaping plan to benefit the environment and wildlife; and that the lighting plan be sensitive to abutting residential properties and cognizant of wildlife, while providing a safe environment for pedestrians and vehicles.

- **Utilities.** The City of Newton has a sewer Infiltration and Inflow (I&I) Mitigation Master Plan, as required by the Massachusetts Department of Environmental Protection, that calls for developers to contribute a cash payment toward sewer I&I removal

construction projects in the area of the development at a ratio of 8:1 (8 gallons removed for every 1 gallon proposed by the development). The gallons proposed by the development are calculated by the number of bedrooms times 110 gallons per bedroom per day. The Applicant will be expected to meet this requirement.

The City has not performed any investigation of the water mains in the immediate area to determine if additional mitigation will be required for fire safety. This may include upgrading the existing water mains by cleaning and lining, or replacement, to achieve required water flows for fire-fighting purposes.

- **Green Building.** The application states that the Project will be designed to meet LEED Green Building Standards, but does not specify what level of certification the Applicant intends to achieve. We believe the Applicant should commit to achieving LEED certification at a Silver level or better for the core and shell of the building. This effort would align with the City's policy that *"the site planning, building design, construction, maintenance or long-term operation of the premises should contribute significantly to the efficient use and conservation of natural resources and energy."* Should this Project move forward, the Applicant should describe the sustainable aspects of the Project in their filing with the Zoning Board of Appeals.
- **Tree Removal and Landscape Screening.** The Applicant did not submit a tree removal or landscape plan, but has indicated that most of the existing trees along the perimeter of the site will be kept in order to maintain screening from abutting residential properties. Should this project move forward, the Department recommends the Applicant provide a complete tree removal and landscape plan with their submission to the Zoning Board of Appeals.

## **B. Affordable Housing Need**

Newton has a longstanding commitment to affordable housing, having created both regulatory methods and undertaken actions to meet affordable housing needs. As of February 2, 2014, 2,441 of the City's 32,346 housing units, or 7.5 percent, were included on the Subsidized Housing Inventory (SHI).

Currently, there are five additional private developments with 395 SHI-eligible units in the pipeline. Of these units, 142 will be affordable to households earning 80 percent or less of the Area Median Income (AMI). Nonetheless, there is a demand for affordable rental housing. Over 1,000 households are on affordable housing waiting lists for existing multifamily



developments in Newton.<sup>2</sup> The Department supports providing housing opportunities for households earning 50 percent or less of AMI.

- **Existing Housing Stock and Household Income.** Newton's housing stock is diverse in age, size, design and type. Approximately 64 percent of Newton's housing units are detached single-family homes. 18 percent are two-family homes and 22 percent are multi-family buildings. Although the Newton median household income is \$107,696, approximately 25 percent of Newton households earn less than 80 percent of AMI.<sup>3</sup> According to federal data, 17 percent of Newton renter households have a housing cost burden greater than 30% of their income, which is regarded by the U.S. Department of Housing and Urban Development as unaffordable.<sup>4</sup>

### **C. Previous Municipal Actions**

The City has been proactive in the creation and preservation of affordable housing to meet existing needs through its existing financial and regulatory programs. The City has provided its support to development projects that provide a higher level of sustainability, accessibility and a greater percentage and mix of affordability. These projects and programs will create significant affordable housing opportunities in the City.

- **New Affordable Housing Development.** The City has expended substantial municipal and federal resources to create and preserve affordable housing. Since 2008, the City has provided more than \$7.5 million in Community Preservation Act (CPA), Community Development Block Grant, (CDBG) and HOME funds for affordable housing development projects. Over 30 percent of Community Preservation funds have funded the creation of affordable housing. This amount is 20 percent higher than the regulatory requirement.
- **Inclusionary Zoning.** Newton was one of the first cities in the Commonwealth to enact an inclusionary zoning ordinance. The ordinance requires developments requiring a special permit to create 15 percent of the units as affordable to income-eligible households. Since its adoption in 1977, the ordinance has resulted in the creation of over 250 affordable units. The inclusionary housing ordinance has proven an effective tool as development activity increases due to strong demand. Fifty more inclusionary affordable housing units are currently in the pipeline.

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<sup>2</sup> According to survey conducted by Planning staff in Summer 2013

<sup>3</sup> U.S. Dept. of Housing and Urban Development; Comprehensive Housing Affordability Strategy Data, 2006-2010

<sup>4</sup> U.S. Dept. of Housing and Urban Development; FY13 Estimates for Low-to Moderate Income Persons

- **Planning Efforts and Zoning Reform.** The Planning Department has docketed an item with the Newton Board of Aldermen to enable the creation of scattered, small housing developments with units priced substantially lower than is common without subsidies or deed restrictions. The City is also in the process of redeveloping a municipal parking lot to create a mixed-use project in Newtonville with a minimum of 18 units. Twenty-five percent of these units must be affordable. These local efforts will provide additional affordable housing options geared to singles, young couples and empty nesters.
- **Local Initiative Program/Chapter 40B Proposals.** The Department has recently supported two Local Initiative Program proposals that would yield 16 affordable units should they receive a Comprehensive Permit. The Department and the Zoning Board of Appeals is also reviewing a Comprehensive Permit proposal that would create 334 units of rental housing at 135 Wells Avenue, which also received its Site Eligibility Approval from the Massachusetts Housing Partnership.

#### **D. Traffic, Parking and Transportation Impacts**

- **Traffic.** The proposed site is bordered to the west and south by Rowe Street, Webster street to the north, all of which are two-way and with a functional classification of 'local road.' The site is bordered to the east by Crescent Street, which is one-way from Webster Street to Rowe Street and also classified as a 'local road.' Rowe Street travels in a north/south direction to the west of the proposed site, and an east/west direction to the south of the proposed site. The site is bordered by residential properties to the west, north and south and commercial properties to the south along the opposite side of Rowe Street. There are two intersections adjacent to the proposed site: the first being Rowe Street (N/S) and Rowe Street (W/E); the second being Rowe Street (N/S) and Webster Street. Both intersections are currently under 4-way stop control and will serve as the primary access to the site. The City believes both of these intersections will be impacted by the traffic generated by this project. The Applicant has initiated a traffic study and vehicle counts that will be performed in September when schools are back in session. In addition to automated traffic counts, the City recommends performing manual turning movement counts, pedestrian counts, obtaining accident data for at least the last three (3) years and providing a level of service analysis for both existing and future conditions for both of these intersections.
- **Site Access.** The proposed site can be accessed from Rowe Street (south) or via Royal Circle (private way and “paper” street), which is north of the site off of Webster Street. The proposed site plan utilizes access from Rowe Street only, as access from Royal Circle would pose significant challenges due to existing encroachments over the private way,

and its location adjacent to residential properties. It should be noted that Crescent Street, which is located to the east of the site, is one-way from Webster Street to Rowe Street and may become a problem, as it may encourage some drivers to utilize this street illegally by entering from the south after exiting the site. There is also a privately-owned driveway at the intersection of Rowe Street and Crescent Street that may encourage drivers to use this drive to access Rowe Street. The developer should address these conditions as part of their proposal.

- **Parking.** The Project is proposing approximately 190 parking spaces: 85 above ground and 105 below the building. Based on the proposed distribution of 22 studios, 62 one-bedroom, 51 two-bedroom and 15 three-bedroom apartments, we question if the proposed on-site parking is adequate for this development, particularly for visitor and handicap spaces.
- **Access to Public Transportation.** The site has good access to public transportation. The nearest MBTA bus stop is located at the intersection of Pamella Court with Commonwealth Avenue, approximately 1,250 feet (0.24 miles) from the site. The nearest Commuter Rail Service is the Auburndale Station or West Newton Station, both approximately 2,000 feet (0.40 miles) from the site.

#### **E. Summary of Concerns**

Newton strives to connect excellence in land use planning, context-sensitive design and transit-friendly locations when considering increases in our housing stock. This is consistent with Statewide efforts to encourage smart growth, livable communities, and sustainable development. Newton agrees that such principles should guide its priorities for the locations of all development, but particularly for development of housing and affordable housing opportunities, and that we should grow where it makes the most sense: near village centers, transit stations, and with pedestrian access to schools, amenities, employment centers and other destinations. While the location of the site and the programming of the Project meet some of these objectives, there are serious concerns regarding high-density residential development at this site. The Department is concerned about the loss of commercially zoned land, and that the exclusion of commercial uses (i.e., small retail, service and office space) misses a potential opportunity to provide amenities and jobs closer to an existing residential neighborhood. The Department is also concerned that the limited access from the site and the number of units proposed could result in traffic impacts in the surrounding neighborhood. Finally, we have concerns regarding environmental remediation, stormwater management, and the Project's impact on utility infrastructure.

Should MHP determine this site eligible for a Comprehensive Permit, the Department respectfully requests that MHP require the Applicant to perform a comprehensive, independent parking and traffic study of the scope identified herein. The Department also believes that the Applicant needs to submit an appraisal showing As-Is Market Value for the application to be considered complete.

Please do not to hesitate to contact me if you have any questions about the contents of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Havens", is displayed on a light yellow rectangular background.

Candace Havens

Director, Planning and Development Department

Cc      Mayor Setti D. Warren  
Dori F Zaleznik, Chief Administrative Officer  
Donnalyn B. Lynch Kahn, City Solicitor  
Scott Oran, Dinosaur Capital Partners  
Alderman Jay Harney  
Alderman Leonard J. Gentile  
Alderman Amy Mah Sangiolo  
Alderman Ted Hess-Mahan  
Alderman James R. Cote